

Message Text

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ACTION ARA-14

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
USIA-06 AID-05 PC-01 OMB-01 IO-13 DHA-02 (ISO) W
-----001660 221449Z /44

R 181400Z AUG 77
FM AMCONSUL SAO PAULO
TO SECSTATE WASHDC 7938
INFO AMEMBASSY BRASILIA
AMCONSUL RIO DE JANEIRO

C O N F I D E N T I A L SECTION 1 OF 2 SAO PAULO 2142

E.O. 11652: GDS
TAGS: PGOV, PFOR, BR
SUBJ: BRAZILIAN JURISTS CALL FOR IMMEDIATE RETURN TO RULE OF LAW

BEGIN SUMMARY:

1. LAW PROF. GOFREDO DA SILVA TELLES, IN A 14 PAGE "LETTER TO BRAZILIANS," CALLED FOR BRAZIL'S IMMEDIATE RETURN TO THE RULE OF LAW BEFORE AN ENTHUSIASTIC GROUP AT THE PRESTIGIOUS SAO FRANCISCO LAW FACULTY IN SAO PAULO ON AUGUST 8. THE "LETTER" WAS COMPARED BY SOME SUPPORTERS TO THE "MINEIRO MANIFESTO", ISSUED IN 1943, WHICH PLAYED A ROLE IN VARGAS' OVERTHROW IN 1945. LIKE THE 1943 DOCUMENT, THE LETTER WAS IMPORTANT BECAUSE OF ITS TIMING. IT FOCUSED NATIONAL ATTENTION ON SIMILAR MANIFESTATIONS OF OPINION IN RECENT WEEKS, INCLUDING BY RETIRED MILITARY LEADERS. THE LETTER WAS SIGNED BY 93 JURISTS, INCLUDING LAW PROFESSORS AND RETIRED JUDGES AND SOLICITORS. SINCE ITS READING, THOUSANDS MORE HAVE REPORTEDLY SUBSCRIBED TO IT. GOVERNMENT REACTION HAS BEEN MILD. PRESIDENTIAL PRESS SECRETARY CAMARGO REFUSED TO COMMENT ON IT. CONGRESSIONAL REACTION FOLLOWED PREDICTABLE LINES. BUT THE LETTER HAS GENERATED A PUBLIC REACTION OF SUPPORT WHICH INCLUDED A PARADE BY ABOUT 7,000 IN SAO PAULO ON AUGUST 11 (SEPTEL). ASIDE FROM THE TIMING OF THE LETTER, ITS SIGNIFICANCE LIES IN BROADENING THE "CIVILISTA MOVEMENT" -- THE CURRENT OF OPINION THAT FAVORS POLITICAL CHANGE,
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BUT DOES NOT NECESSARILY IDENTIFY WITH THE FORMAL OPPOSITION. THE LETTER'S EVENTUAL IMPORTANCE WILL BE DETERMINED BY THE EXTENT TO WHICH IT BECOMES A TOUCHSTONE FOR THAT CURRENT OF OPINION.
END SUMMARY.

2. LAW PROFESSOR GOFREDO DA SILVA TELLES READ A "LETTER TO BRAZILIANS", CALLING FOR THE IMMEDIATE RETURN TO THE RULE OF LAW,

TO AN ENTHUSIASTIC GROUP OF ABOUT 2,000 PEOPLE IN SAO PAULO THE EVENING OF AUGUST 8. THE LETTER, PRECEDED BY HEAVY PRESS PUBLICITY, WAS A MAJOR HIGHLIGHT OF SERIES OF EVENTS THAT MARKED THE 150TH ANNIVERSARY OF THE FOUNDING OF LAW SCHOOLS IN BRAZIL. IT WAS READ IN THE PATIO OF THE LARGO DE SAO FRANCISCO LAW SCHOOL, BRAZIL'S MOST PRESTIGIOUS LEGAL INSTITUTION. THE LETTER WAS SIGNED AT THE TIME IT WAS READ BY 93 JURISTS, MAINLY FROM SAO PAULO AND RIO, SELECTED FOR THEIR LEADERSHIP IN VARIOUS AREAS OF THE LEGAL PROFESSION. IT IS NOW BEING CIRCULATED THROUGHOUT THE COUNTRY FOR SIGNATURES AND REPORTEDLY OBTAINED THOUSANDS, INCLUDING OF STUDENTS AND POLITICIANS. THE BRAZILIAN BAR ASSOCIATION ANNOUNCED THAT IT WOULD DISCUSS AND PROBABLY FORMALLY APPROVE THE LETTER BY THE END OF THE MONTH.

3. THE 14-PAGE LETTER IS WRITTEN ALMOST LIKE A CLASSROOM LECTURE. IT DIFFERENTIATES AND DEFINES CONCEPTS SUCH AS: LEGAL AND LEGITIMATE LAWS, POWER, FORCE, AND SERIOUS AND IRRESPONSIBLE FORMS OF SOCIAL ORDER. IT PROCLAIMS THAT THE CONSTITUTION, REFLECTING THE WILL OF THE PEOPLE THROUGH A CONSTITUENT ASSEMBLY, IS SOVEREIGN. NO LAW OR PERSON CAN BE ABOVE IT (CONTRARY TO THE PRESENT SITUATION IN BRAZIL). IT STATES THAT THE CONSTITUTIONAL STATE IS THE STATE OF LAWS, NOT OF FACT. DEMOCRACY CANNOT BE WITHHELD PENDING DEVELOPMENT, EXCEPT TO JUSTIFY PERMANENT DICTATORSHIP. IN A SHARP CUT AT THE REGIME, THE LETTER SAYS THAT "SECURITY AND DEVELOPMENT" (THE SLOGAN OF THE GEISEL ADMINISTRATION) IS THE SLOGAN OF TOTALITARIAN REGIMES. DEVELOPMENT SHOULD COME FROM THE PEOPLE,
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REFLECTING THEIR INTERESTS. THE LETTER STATES THAT THE DIFFERENCES BETWEEN DICTATORSHIPS AND DEMOCRACIES ARE CLEAR. ECONOMIC DEVELOPMENT CANNOT OBSCURE THAT. THE LETTER MAKES A SERIES OF DISTINCTIONS BETWEEN THE "STATE OF LAW" AND THE "STATE OF FACT", IDENTIFYING THE LATTER AS DICTATORSHIP AND CLEARLY IDENTIFYING THE REGIME AS A DICTATORSHIP, BECAUSE, INTER ALIA, IT BANISHES CIVIL SOCIETY FROM NATIONAL POLITICAL LIFE. THE LETTER CONCLUDES "BRAZILIAN JUDICIAL CONSCIENCE WANTS ONLY ONE THING: THE RULE OF LAW. NOW."

4. PROF. DALMO DALARI, WHO COLLABORATED ON THE LETTER, TOLD CONGEN OFF THAT SAO PAULO PROFESSORS DECIDED TO WRITE THE LETTER IN REACTION TO THE APRIL CONSTITUTIONAL CHANGES, DECREED BY THE PRESIDENT. THEY THOUGHT THAT IT WAS TIME TO TAKE A STAND. THE DOCUMENT WENT THROUGH THREE DRAFTS SINCE LATE APRIL; EACH ONE SUBMITTED TO A WIDER GROUP FOR COMMENTS. DALARI STATED THAT CARE WAS TAKEN WITH WHO SIGNED THE LETTER. ALTHOUGH THE PROFESSORS SOUGHT OPINIONS OF SOME JUDGES AND SOLICITORS NOW SERVING, ONLY RETIRED JUDICIARY OFFICIALS WERE ASKED TO SIGN, TO AVOID REPRISALS. HE SAID THERE WAS SOME CONCERN AMONG PROFESSORS AT FEDERAL UNIVERSITIES WHO SIGNED, SINCE THE GOVERNMENT MIGHT FIND THEIR SIGNATURE ON THE DOCUMENT A REASON TO HAVE THEM REMOVED.

EITHER FROM FEAR, DISAGREEMENT OR, IN DALLARI'S OPINION, PROF.
TELLES' EXCESSIVE DESIRE TO BE A STAR, THE LIST IS RATHER RESTRICTIVE

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ONLY 6 OF THE 26 FULL PROFESSORS AT THE LAW FACULTY WERE ORIGINAL
SIGNERS. ALARI SAID, HOWEVER, THAT HE HAD INFORMATION THAT THE
GOVERNMENT'S REACTION WOULD CONTINUE MILD AND THAT NO ONE WOULD
BE PUNISHED FOR COLLABORATING ON THE LETTER.

5. REACTION TO THE LETTER, SAO PAULO SENATOR FRANCO MONTORO,
COMPARED IT TO THE "MINEIRO MANIFESTO" OF 1943, A SIMILAR MOVEMENT
OF CONSCIENCE WHICH PLAYED A ROLE IN BUILDING IDEOLOGICAL CONSENSUS
FOR THE OVERTHROW OF PRESIDENT VARGAS. SEVERAL SPEAKERS AT THE
AUGUST 8 CEREMONY DREW THE SAME PARALLEL. PRESIDENTIAL PRESS
SPOKESMAN COL. TOLEGO CAMARGO DECLINED TO COMMENT.
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USIA-06 AID-05 PC-01 OMB-01 IO-13 DHA-02 (ISO) W
-----087577 181921Z /44

R 181400Z AUG 77
FM AMCONSUL SAO PAULO
TO SECSTATE WASHDC 7939
INFO AMEMBASSY BRASILIA
AMCONSUL RIO DE JANEIRO

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6. THE GOVERNMENT'S REACTION CAME THROUGH ITS CONGRESSIONAL LEADER-
SHIP. ARENA SENATE LEADER EURICO RESENDE CHARACTERIZED THE LETTER
AS INJURIOUS, SINCE IT CALLED THE GOVERNMENT A DICTATORSHIP,
WHICH WAS REFUTED BY THE VERY FACT OF THE LETTER'S PUBLICATION.
RESENDE REBUTTED THE CLAIMED ILLEGITIMACY OF THE REVOLUTION, STATING
THAT REVOLUTIONS GENERATE THEIR OWN LEGITIMACY. HE ALSO TOOK ISSUE
WITH THE IMMEDIACY OF THE JURISTS DEMANDS FOR THE RETURN TO
NORMALITY STATING THAT GEISEL IS COMMITTED TO A POLICY OF GRADUAL

IMPROVEMENT. CHAMBER ARENA LEADER, MINAS DEPT JOSE BONIFACIO, STATED THAT HE HAD NOT READ THE LETTER, BUT CLAIMED IT WAS OF COMMUNIST INSPIRATION, SINCE ANY DOCUMENT OF THAT NATURE NOW WAS DESIGNED TO DISTURB THE NATION. VICE LEADER SAO CANTIDIO SAMPAIO ATTACKED THE INTEGRALISTA (CORPORATIVIST) PAST OF PROF TELLES. MDB REACTION WAS ALSO PREDICTABLE. CHAMBER LEADER FREITAS NOBRE ATTRIBUTED GREAT POLITICAL SIGNIFICANCE TO THE DOCUMENT, STATING THAT IT WAS AN APPEAL "WITHOUT HATE" TO THE NATION, ECHOING MILLIONS OF VOICES. MDB PRESIDENT ULYSSES GUIMARAES, SAID THAT THE LETTER MADE CLEAR THAT THE NATION CAN ONLY BE STABLE WITH THE PEOPLE'S PARTICIPATION.

7. GEN. ALBUQUERQUE LIMA, MINISTER OF INTERIOR UNDER GEN. COSTA E SILVA AND KNOWN FOR HIS LIBERAL AND NATIONALISTIC VIEWS, STATED THAT HE THOUGHT THE LETTER WAS A VALID CONTRIBUTION
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TO PRESIDENT GEISEL IN HIS DETERMINATION TO OPEN PATHS TOWARD DEMOCRACY IN BRAZIL. BY COINCIDENCE, THE LETTER WAS MADE PUBLIC JUST AFTER FORMER AIR FORCE MINISTER BRIG. GRUM MOSS, RETIRED GENERAL HELIO LEMOS, AND RETIRED COLONELS RUY CASTRO AND BOAVENTURA CAVALCANTI EITHER WROTE PUBLIC LETTERS OR MADE IT KNOWN THAT THEY HAD WRITTEN SEPARATE, UNCOORDINATED LETTERS CALLING FOR A RETURN OF THE MILITARY TO THE BARRACKS AND FOR THE CONVOCAATION OF A CONSTITUTENT ASSEMBLY. SENATOR (AND RETIRED COLONEL) JARBAS PASSARINHO HAD ALSO CALLED FOR THE MILITARY'S RETURN TO THE BARRACKS. HE SUBSEQUENTLY RECITIFIED HIS STATEMENT TWICE. THE FIRST TIME TO SPECIFY THAT HE MEANT THAT THE MILITARY SHOULD STAY IN POWER UNTIL 1984. LATER HE SAID THAT THE MILITRY WOULD NOT ACCEPT DEMANDS FOR A TIME TABLE TO RETURN POWER TO CIVILIANS. SAO PAULO DEPUTY HERBERT LEVY CHIMED IN, STATING THAT THE CONTINUED EXERCISE OF POWER CUT INTO THE MILITARY'S SUPPORT AS A NATIONAL INSTITUTION. HE SUGGESTED THAT THE MILITARY BEGIN PREPARING FOR A GRADUAL RETURN OF POWER TO CIVILIANS BY SELECTING A CIVILIAN AS VICE-PRESIDENT AS A FIRST STEP.

8. THE LETTER HAS SET OFF A PUBLIC REACTION, STRONGEST IN SAO PAULO, BUT ALSO EVIDENT IN RIO AND OTHER URBAN CENTERS (SEPTTEL). THIS REACTION, KNOWN AS A "CIVILISTA MOVEMENT" IS COMPOSED OF THOSE PEOPLE WHO WOULD LIKE BRAZIL TO RETURN TO DEMOCRACY, BUT DO NOT NECESSARILY IDENTIFY WITH THE FORMAL OPPOSITION. ONE MANIFESTATION OF THAT REACTION WAS ON AUGUST 11 AT THE CLOSING CEREMONY OF THE ANNIVERSARY OF THE SAO PAULO LAW FACULTY. STUDENTS BOOED VICE-GOVERNOR (AND LAW PROFESSOR) GONCALVES FERREIRA AND CALLED FOR PROF. TELLES TO SPEAK. THE VICE-GOVERNOR STOMPED OUT AS PROF. TELLES VIRTUALLY INVITED THE STUDENTS TO DEMONSTRATE THEIR FEELINGS IN THE STREET. A PARADE OF 2000-3000 STUDENTS SOON SWELLED INTO ONE OF ABOUT 7,000 PEOPLE AS ONLOOKERS JOINED IN THROUGH DOWNTOWN SAO PAULO STREETS, IN VIOLATION OF THE RULE THAT STUDENTS CAN DEMONSTRATE ONLY ON CAMPUS. POLICE, INSTEAD OF DISPERSING THE

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MANIFESTATION, HELD TRAFFIC WHILE THE PARADERS MARCHED. LATER, STATE SECRETARY FOR PUBLIC SECURITY COL. ERASMO DIAS SAID THAT POLICE DID NOT HAVE INFORMATION ABOUT STUDENT PLANS TO DEMONSTRATE. THE GOVERNMENT'S REACTION WAS THAT THEY DID NOT CONSIDER THE PARADE A CONFRONTATION, ALTHOUGH THE BANNERS AND SLOGANS WERE IDENTICAL TO PREVIOUS MANIFESTATIONS, REPPRESSED BY THE POLICE.

9. COMMENT: THE LETTER TO BRAZILIANS IS SIGNIFICANT FOR SEVERAL REASONS.

--IT REPRESENTS THE THINKING A SIGNIFICANT PORTION OF THE MORE LIBERAL LAWYERS, JUDGES, LAW PROFESSORS AND SOLICITORS, EVEN THOUGH MANY PROMINENT JURISTS DID NOT SIGN.

--THE LETTER ITSELF IS DIDACTIC IN TONE, EVEN PEDANTIC, BUT IT HAS GONE OVER WELL WITH MANY IN THE EDUCATED ELITE AS A SERIOUS CONTRIBUTION TO THE ARTICULATION OF PUBLIC OPINION ON BRAZILIAN POLITICAL ORGANIZATION.

--THE COINCIDENCE OF THE APPEARANCE OF THE LETTER JUST WHEN SIMILAR APPEALS FOR A RETURN TO DEMOCRACY ARE BEING MADE, INCLUDING BY RETIRED MILITARY LEADERS FROM EARLIER PERIODS OF THE RECILUTION, REINFORCES GREATLY THE LETTER'S IMPACT.

--PERHAPS THE MOST SINGIFICANT ASPECT OF THE LETTER IS THAT IT CONTRIBUTES TO THE ENLARGEMENT OF THAT CURRENT OF OPINION THAT WISHES TO IDENTIFY ITSELF AS BEING IN FAVOR OF POLITICAL CHANGE TOWARD DEMOCRACY, BUT DOES NOT WANT TO ASSOCIATE ITSELF WITH THE FORMAL OPPOSITION TO THE REGIME. THE EVENTUAL IMPORTANCE OF THE "LETTER TO BRAZILIANS" WILL BE DETERMINED BY THE EXTENT TO WHIC IT BECOMES A TOUCHSTONE FOR THIS "CIVILISTA MOVEMENT."
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Message Attributes

Automatic Decaptioning: X
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Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 22 May 2009
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
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Drafter: n/a
Enclosure: n/a
Executive Order: GS
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Original Handling Restrictions: n/a
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Original Previous Handling Restrictions: n/a
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Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1560569
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Status: NATIVE
Subject: BRAZILIAN JURISTS CALL FOR IMMEDIATE RETURN TO RULE OF LAW BEGIN SUMMARY
TAGS: PGOV, PFOR, BR, (TELLES, GOFREDO DA SILVA)
To: STATE
Type: TE
vdkgvwkey: odb://SAS/SAS.dbo.SAS_Docs/4a028b58-c288-dd11-92da-001cc4696bcc
Review Markings:
Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
22 May 2009
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 22 May 2009